

REMARKS

Claims 1-23 are canceled.

Claims 24-31 are pending.

Claims 32 and 33 are new. Support for the new claims is found at previous Claims 24 and 25(e).

Claims 24 and 25 are amended to relate to polynucleotides comprising a sequence having at least 80% and 95% sequence identity with SEQ ID NO:1, respectively. Support for the amendments is found at page 20, line 35 to page 21, line 6.

Claim 28 is amended to recite an "isolated" host cell. Support for the amendment is found, e.g., at page 5, lines 11-13.

Claim 31 is amended. Support for the amendments is found, e.g., at page 37, lines 14-16 and at page 18, lines 27-31.

The Specification is amended to change the title and update the cross-reference to related applications.

Applicants believe that no new matter is added by way of amendment.

I. Objections to the Specification.

The title has been amended in response to the objection to the title as not descriptive.

The Examiner requested that the priority information in the first sentence of the specification be updated. Applicants originally updated the priority information in a Preliminary Amendment dated 18 September 2003. Applicants further amend the specification herein to reflect the fact that the Application No. 09/853,180 has issued as U.S. Patent No. 6,756,481.

In view of the foregoing amendments, Applicants respectfully request withdrawal of the objections to the Specification.

II. Rejections Under 35 U.S.C. §112, First Paragraph

The Examiner rejected Claims 28 and 29 under 35 U.S.C. §112, first paragraph, as allegedly not enabling the full scope of "host cells" as claimed. Claim 28, and thus

dependent Claim 29, is amended herein to refer to an "isolated" host cell, as suggested by the Examiner.

In view of the foregoing amendment, Applicants respectfully request withdrawal of the rejections under §112, first paragraph.

III. Rejections Under 35 U.S.C. §112, Second Paragraph

The Examiner rejected Claim 31 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for recitation of the term "IL12Rβ1 polypeptide," which is characterized by the Examiner as "an arbitrary abbreviation." To the contrary, the name "IL-12Rβ1" is, and was as of the priority filing date, well known to those of skill in the art to refer to a specific polypeptide. In the interests of clarity Applicants revise Claim 31 to refer to "human" IL12Rβ1 polypeptide, which is supported by explicit reference to literature references referring to the human protein by this name, and GenBank Accession Nos: U03187 and NM_005535, at page 18, lines 27-31 of the specification as-filed, which disclose the human IL12Rβ1 polypeptide sequence.

In view of the amendment to the claim, the fact that the term "IL12Rβ1" was well known, and the explicit recitation of accession numbers for the polypeptide sequence in the specification, Applicants respectfully request withdrawal of the rejection under §112, second paragraph for use of the phrase "IL12Rβ1 polypeptide".

Claim 31 is further amended to clarify the composition of the claimed kit. The claim is amended, *inter alia*, to refer to compartments for "containing," rather than "comprising," the nucleic acid of Claim 24. Support for this amendment is found, e.g., at page 37, lines 14-16. In view of these amendments to the claim, Applicants respectfully request withdrawal of the rejection of Claim 31 under §112, second paragraph.

IV. Rejection Under 35 U.S.C. §102(e)

The Examiner rejected Claim 24 under 35 U.S.C. §102(e) as anticipated by Maharias *et al.* (1999). Claims 24 and 25 are amended to remove the phrase "antigenic polypeptide," and also to relate to polynucleotides comprising sequences having a defined level of homology with SEQ ID NO:1. New Claims 32 and 33 are presented encompassing polynucleotides encoding the mature form, and full-length, DCRS5

polypeptide of SEQ ID NO: 2 but without reference to "antigenic polypeptides" thereof. New Claim 33 corresponds essentially to the claim form suggested by the Examiner to obviate the rejection.

In view of the amendments to the claims, Applicants believe that Maharias *et al.* (1999) does not anticipate the pending claims (including the new claims). Applicants therefore respectfully request that the rejection of Claim 24 as anticipated 35 U.S.C. §102(e) be withdrawn.

V. Rejections Under 35 U.S.C. §103(a)

The Examiner rejected Claims 24 and 27-31 under 35 U.S.C. §103(a) as unpatentable over Maharias *et al.* (1999) in view of Delcuve (U.S. Patent No. 5,888,774). As discussed *supra* with respect to the rejection of Claim 24 under 35 U.S.C. §102(e), the claims are amended to overcome the rejection based on Maharias *et al.* (1999). Because the rejections under 35 U.S.C. §103(a) were dependent on Maharias *et al.* (1999), Applicants believe that the claims as amended (including new claims 32 and 33) are patentable over the combination of Maharias *et al.* (1999) and Delcuve.

Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 24 and 27-31 under 35 U.S.C. §103(a).

Conclusion

Applicants' current response is believed to be a complete reply to all the outstanding issues of the latest Office action. Further, the present response is a bona fide effort to place the application in condition for allowance or in better form for appeal. Accordingly, Applicants respectfully request reconsideration and passage of the amended claims to allowance at the earliest possible convenience.

Applicant believes that no additional fees are due with this communication. Should this not be the case, the Commissioner is hereby authorized to debit any charges or refund any overpayments to DNAX Deposit Account No. 04-1239.

If the Examiner believes that a telephonic conference would aid the prosecution of this case in any way, please call the undersigned.

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Respectfully submitted,

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By: /Gregory R. Bellomy/
Gregory R. Bellomy, Reg. No. 48,451
Attorney for Applicants

Customer No. 028008
DNAX Research, Inc.
901 California Avenue
Palo Alto, CA 94304-1104
Telephone (Switchboard): (650) 496-6400
Telephone No. (Direct): (650) 496-6565
Facsimile No.: (650) 496-1200